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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/410,368	09/30/1999	JOHN R. HAVENS	244/006	6760

7590 03/25/2002  
LYON & LYON LLP  
633 W FIFTH ST  
SUITE 4700  
LOS ANGELES, CA 90071

EXAMINER

MARSCHER, ARDIN H

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 03/25/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Further Explanation of Item 4 on the attached Advisory Action:

The rejection of claims 1-19, 21-26, 28-39, and 67-89 under 35 U.S.C. 112, second paragraph, is maintained regarding the vagueness and indefiniteness as to the metes and bounds of addressability practice regarding the claim wording. Consideration of the citations in P/N 5,632,957 in columns 7-9 has failed to reveal a defining statement regarding addressability. It is noted that said Patent at column 9, line 17, cites "other addressable locations" but without stating what is the basis for the addressability. This also applies to the cited instant specification at pages 4 7, 8, and 20 wherein electronic potentials etc. are described for the control of pH and binding entity movement but without stating anywhere that this is addressability practice. It is may be assumed that the "result" of addressing electronic signals is pH change or the control of the movement of charged entities but the result of something is not a concise definition of what it is. It is additionally noted that none of the instant claims cite an addressability limitation regarding electrode potentials etc. but rather leave it open for conjecture as to what is meant regarding addressability. Such conjecture is a basis for vagueness and indefiniteness by which to choose a variety of undefined practices as possibly being the addressability practice and not

necessarily the result of electrode voltage or potential practice.


Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The CM1 Fax Center number is either (703)308-4242 or (703)305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., whose telephone number is (703)308-3894. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (703)308-4028.

Any inquiry of a general nature or relating to the status of this application should be directed to Patent Analyst, Tina Plunkett, whose telephone number is (703)305-3524 or to the Technical Center receptionist whose telephone number is (703) 308-0196.

March 22, 2002

  
ARDIN H. MARSCHEL  
PRIMARY EXAMINER



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

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Below is a communication from the EXAMINER in charge of this application  
COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 months from the date of the final rejection

b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 1/23/02 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☐ They raise the issue of new matter. (See Note).
- d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: none

Claims objected to: none

Claims rejected: 1-19, 21-26, 28-39, and 67-89

However;

☒ Applicant's response has overcome the following rejection(s): the NEW MATTER rejn. and the uncertainty regarding bonding to P-X-R

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because of reasons of record - more fully explained in attached

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☒ The proposed drawing correction ☒ has been approved by the examiner and official Draftsman.

☐ Other

09/4/0, 368